

Guardianship of a Minor

WARNING: THE FOLLOWING INFORMATION IS OF A GENERAL NATURE ONLY, AND IS NOT DESIGNED TO PROVIDE LEGAL ADVICE SPECIFIC TO ANY INDIVIDUAL OR CASE. IT CAN SERVE AS A GUIDE, BUT DOES NOT TAKE THE PLACE OF PRIVATE LEGAL ADVICE. MANY COUNTIES HAVE LEGAL AID PROGRAMS FOR THE INDIGENT, OR LIMITED MEANS PANELS FOR MODERATE INCOME PEOPLE WHO MAY NEED A PRIVATE ATTORNEY. OTHER PROGRAMS MAY BE AVAILABLE WHERE YOU CAN GET LIMITED ASSISTANCE OR REPRESENTATION FROM AN ATTORNEY ON AN “UNBUNDLED” OR “TASK-BY-TASK” BASIS, PAYING ONLY FOR THOSE SERVICES IN WHICH YOU REQUIRE ASSISTANCE AND DOING THE REST YOURSELF. CALL YOUR LOCAL BAR ASSOCIATION TO FIND OUT ABOUT AVAILABLE PROGRAMS IN YOUR COUNTY TO HELP YOU GET PRIVATE LEGAL ADVICE.

Step 1

WHAT IS GUARDIANSHIP?

A **guardianship** is where the court orders a non-parent to take care of a minor child. A guardianship can be for the minor’s **person** and/or **estate**. When you are appointed guardian of a minor you must

serve as guardian until you are legally released by the court from your duties or the minor reaches age 18.

Guardianship of the **person** means taking care of the minor's physical needs such as food, clothing and shelter. Guardianship of the **estate** means taking care of the minor's assets, such as money, property or things of value. **If the minor has assets you need to get help from a private attorney.** The duties a guardian of the estate owes to the minor regarding how the minor's money is to be handled are called **fiduciary** duties. These are the highest duties the law recognizes and require a professional level of knowledge and expertise.

HOW DO I KNOW IF I NEED TO GET A GUARDIANSHIP?

Before you decide if a guardianship is what you need, consider the following options:

- **A Caregiver's Authorization Affidavit**
- **Power of Attorney (Minor Child)**

These documents may provide you with the limited power to take care of the minor child when the following apply:

- ✓ ☐ You only plan to take care of a minor for a short period of time, maybe up to one year.
- ✓ ☐ You are related to the minor and the parents will allow you to enroll their child in school and approve medical attention.
- ✓ ☐ You are planning to move out of the State of California with the minor child and intend to apply for a guardianship in the other State.

If any of these statements apply you might consider using a **Caregiver's Authorization Affidavit** or **Power of Attorney** instead of a guardianship. It is always best to consult with a private attorney before you decide. For instructions on how to use these forms [click here](#). (link to caregiver's authorization affidavit and power of attorney).

As guardian of a minor you will assume the role of the minor's parent. It can be rewarding, but it can also be stressful. You will have the ongoing responsibility of the minor, as well as possible liability for the minor's actions. It is always best to consult with a private attorney before you decide.

I HAVE DECIDED I WANT A COURT ORDERED GUARDIANSHIP, WHAT NOW?

1. Get the court forms to file. You can get many of the forms from the Judicial Council Web site ([click here](#)), but some forms will probably be local to your court only. To be sure you have all the forms you will need it is best to get the entire guardianship forms packet from the court clerk's office at the Superior Court where you will file the papers. The court may charge a nominal fee for the cost of duplicating the forms packet.

It will cost approximately \$200.00 to file the petition in Superior Court. The actual filing fee may vary slightly from one court to another, so check the fee schedule of your local court to find out the exact amount.

If you cannot afford this fee, and/or your income is below a certain level, you can apply for a **waiver** of the filing fee. You can get a **fee waiver application** packet from the court clerk's office or from the Judicial Council Web site. The fee waiver application is free and there is no charge to file it. If you qualify for a waiver of the filing fee, you may also request a waiver of the court investigation fees by completing an **Application for Additional Waiver of Fees**.

2. Complete the forms in the packet one at a time.

THE FOLLOWING INFORMATION WILL SHOW YOU HOW TO COMPLETE THE FORMS, ONE STEP AT A TIME. YOU MAY NOW GO TO STEP #2.

Step 2

THE GUARDIANSHIP PACKET

Filling out court papers can make anyone feel a little nervous or unsure. Some papers are easier to complete than others. Try to complete the easiest forms first, moving to the harder ones after you get familiar with the forms. Start by taking a few minutes to look at the guardianship papers **before** you fill them out.

Complete the forms by typing the information requested. Some courts may accept the forms if hand printed neatly using black ink, but other courts may insist the form be typed. Check with your court to find out its policy regarding hand printed forms. It is

always best to type court forms if you can so that people can easily read the information and not mistake what you are trying to say.

MOST GUARDIANSHIP PACKETS INCLUDE:

- ✓ **A guardianship pamphlet and instruction sheet**
- ✓ **Court forms needed to file for guardianship**
- ✓ **A questionnaire and information release forms**

After you have looked over the forms, group them in the following way to make it easier to complete them:

1. Take the 3 information sheets titled **Guardianship Pamphlet** and fold them in half to make a little booklet. Make sure to read this booklet as it provides you with basic information about guardianship.
2. Read any **Filing Information** (instruction sheet your court provides) and keep it available for future reference.
3. The remaining forms are used to file for guardianship. They can be grouped into the following 3 sets. The first two sets are needed for

all guardianship petitions. The third set is only used if you need to get a temporary guardianship before the general guardianship can be made.

SET #1

(Must be completed in all cases for guardianship)

1. Confidential Guardian Screening Form (1 page)
2. Duties of Guardian (3 pages)

The following forms may be used by some courts and not others. Check with your local court's probate department to see if it uses these or similar forms:

3. Guardianship Questionnaire (provides background information about you and your family)
4. Release of School Information
5. Release of Medical Information
6. Information Release Authorization

SET #2

(Must be completed in all cases for guardianship)

1. Petition for Appointment of Guardian Of Minor

2. Declaration Under Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA)
3. Consent Of Guardian, Nomination and Waiver
4. Order Appointing Guardian Of Minor
5. Letters of Guardianship

SET #3

(To be completed only when a temporary/emergency guardianship is needed)

6. Petition For Appointment Of Temporary Guardian
7. Order Appointing Temporary Guardian
8. Letters of Temporary Guardianship
9. Declaration Re Ex Parte Notice*

**Some courts have local forms for this declaration. If so, use the court's local form. If not, then check with your local court to find out if it will allow you to use another court's form. The Ventura County Superior Court has such a form that may or may not be acceptable to your local court. You can obtain the Ventura County Superior Court form through its web site at www.countyofventura.courts.org.*

If you do **not** need emergency/temporary guardianship you do not need **Set #3**. However, keep

these papers available as your situation could change and require you to get a temporary guardianship after all.

The two remaining guardianship forms are the **Notice of Hearing Guardianship** and **Duties And Liabilities of Personal Representative**.

Duties and Liabilities of Personal Representative only applies to a guardianship of the **estate**. As previously explained, you should speak to a private attorney if you need this type of guardianship.

The Notice of Hearing Guardianship **will** be used after the other papers are completed and filed. Keep this form available and complete it **last** using the instructions in step #13 ([click here for instructions](#)).

GO TO STEP #3

Step 3

GUARDIANSHIP FORMS– SET #1

**COMPLETING THE CONFIDENTIAL
GUARDIAN SCREENING FORM, DUTIES OF
GUARDIAN FORM, AND ANY
QUESTIONNAIRE OR INFORMATION
RELEASES REQUIRED BY YOUR LOCAL
COURT**

1. Confidential Guardian Screening Form (GC-212)

Each proposed guardian must submit a completed form. If there are 2 proposed guardians, make one extra copy before completing or ask the clerk for one additional form.

This form is **confidential** and will not be a part of the public file in this case. You are required to complete and submit this form to the court under rule 7.1001 of the California Rules of Court. The information you provide will be used by the court and by persons and agencies designated by the court to assist the court in determining whether to appoint you as guardian. You **must** provide a response to each item numbered on the form.

First, complete the caption boxes at the top of the form. In the first box type or neatly print your name(s), address and telephone number. In the second box provide the court's name and address. In the third box list the minor(s)' name.

Next, answer each question listed on the form. If you need to explain any answer you should use an additional attachment page. The form number for this page is **MC-020**. The court clerk can provide you with this form or you can get it from the Judicial Council Web site ([click here](#)).

Finally, date, type or print your name and sign your signature under the **declaration** section. The form is now complete. To view a sample of a completed form [click here](#). ([link to a sample completed form](#)).

2. Duties of Guardian (GC-248)

If the court appoints you as a *guardian of the person* for a child, you will be required to assume important duties and obligations. Each proposed guardian should read and clearly understand the information on this form.

First, complete the caption boxes at the top of the form. In the first box type or neatly print your name(s), address and telephone number. In the second box provide the court's name and address. In the third box list the minor(s)' name.

Next, read all the information under sections 1, 2 & 3. The information under section 2 is intended for a *guardianship of the estate* and therefore may not apply in your case. If you are requesting guardianship of the estate you should seek legal advice from a private attorney.

Finally, each proposed guardian should date, type or print their names(s) and sign their names where indicated under **Acknowledgment Of Receipt**. The form is now complete. For an example of a completed form click [here](#). (link to sample completed form).

The following forms may be used by some courts and not others. Check with your local court's probate department to see if it uses these or similar forms:

3. Guardianship Questionnaire

First check to see if your local court has its own guardianship questionnaire form. If so, the form is

generally self-explanatory; you just fill in the blanks with the information requested and check any box that applies. You will not have a case number yet so leave that blank.

After you complete all the sections, make sure to **date** and **sign** at the end of your questionnaire.

4. **Release of School Information**

You will generally only complete the **release** portion this form. Check with your local court to find out if you need to complete any other portion of the form. Generally you will complete the first line with your name and the child's name. Next, list the name of the school the child attends or will attend. (If the child is not of school age, simply insert "**N/A**" on the line for name of school. If the child is of school age, however is not presently enrolled, simply insert "**pending**" on the line for name of school). Complete the form with the **date** and your **signature** and your **name typed or print**. The school generally provides the rest of the information for the court.

5. **Release Of Medical Information**

You will generally only complete the **release** portion this form. Check with your local court to find out if you need to complete any other portion of the form. Generally you will complete the first line with your name and the child's name. Next, list the name of the child's **doctor** and/or **clinic address** and **clinic telephone number**. (If the child is not currently seeing a local doctor and/or clinic, simply insert "**pending**" on the line for doctor and clinic name). Complete the form with the **date** and your **signature** and your **name typed or in print**. The doctor or clinic will generally complete the rest of the form.

6. Information Release Authorization

Check with your local court to find out if it requires such a form. If so, you will generally simply type or print your name(s), date the form and sign it.

Step 4

GUARDIANSHIP FORMS– SET #2

COMPLETING THE FORMS FOR GENERAL GUARDIANSHIP

1. Petition For Appointment of Guardian of Minor

This form is the most technical and will probably take the longest to complete. There are additional attachments that may be required when completing this form. You can get sample attachments by clicking on the paragraph or section number of the form where you need an attachment. To view the **sample** attachments that can be used, as well as a sample of a completed petition, click here. (link to sample forms and completed petition)

CAPTION

The top of the petition has **four rectangular boxes** that need to be completed. These boxes are called the “**caption.**”

In the **first** box put your name, address and phone number. In this same box, next to where it says “Attorney For”, type or print the words **In Pro Per.** This means you are representing yourself without an attorney. The first box should look like this:

Jane Doe
567 Any Street
Anytown, CA 93003
In Pro Per

(123) 456-7890

In the **second** box you need to type or neatly print the name of the county where you are filing the petition. This should be the county where you and the minor live. Put the name of the county next to where it says “County Of.” Complete the street and mailing address of the court where you will be filing the petition. If your guardianship petition will be heard in a branch court put the name of that branch on the bottom line. The second box should look like this:

Superior Court of California, County of *Anywhere*
123 So. Anytown Blvd.
Anytown, CA 91234
Central District

In the **third** box type or neatly print the name of the minor child. (Note: If you are asking to be guardian of more than one child, and the children have the same last name, print their last name and minors, example: SMITH MINORS.)

In the **fourth** box check whichever applies (Minor or Minors) and check the box for “person” only. If the

minor has assets and you need a guardianship of the estate it is best to speak with a private attorney. These self help instructions do not provide instructions for guardianship of the estate.

CONTINUE WITH THE PETITION

The following instructions are numbered to match the numbers on the petition. Please type or neatly print (black ink only) the information needed:

- 1.** Name of petitioner (person filing this form.) Put your name here.
 - a.** Name, address and telephone number of the person(s) that will be appointed as guardian(s). This will usually be you, unless you are petitioning for someone else to be appointed guardian.
 - b.** Leave blank, should not apply – if it does, do not continue with these instructions, seek legal advice on guardianship of the estate of a minor.
 - c.** This box is only checked if there is **more** than one minor. If there is, you will need

attachment “1C” for each additional child.
Click here for a sample attachment “1C.”
(link to sample attachment form)

- d. (1) Check the first box (bond not be required)
- d. (2) Leave blank, should not apply
- d. (3) Leave blank, should not apply
- e. Leave blank, should not apply
- f. Check this box. You will need attachment form “F.” For a sample attachment “F” form click here. (link to sample form)
- g. This box is checked only if certain persons cannot be **served**. **Served** means given a copy of the petition and supporting papers. If you do not have an address for a relative that should be notified of the petition you need to check this box and complete an attachment “15.” Click here for a sample attachment “15.” (link to sample form)
- h. Leave blank, should not apply.

2. Name of the minor. Check the box that applies (married or unmarried) and minor's present address.
3. Date of minor's birth
4. Petitioner should check the box (a, b or c) that applies.

Most often, box (a) will apply as the petitioner is usually *related to the minor*. If you check box (a) you need to specify your relationship to the minor.

5. Check the box (a, b or c) that applies. A "nominee" is usually found in cases where the minor's natural parents have died and "nominated" a guardian in their will, or when the natural parent selects the guardian by nominating them with a special form. Most often, box (b) will apply as the proposed guardian is usually related to the minor. If you check box (b) specify the relationship.
- 6.(a) Name and address of the person having **legal custody** of the minor. This will generally be the natural parent unless a court has ordered otherwise.

- 6.(b)** Name and address of the person who presently has care of the minor. This is the person with whom the child is currently living.
- 7. (a) (b) & (c)**
Check the box that applies for each section.
- 8.** Check the box that applies.
- 9.** Check the box that applies.
- 10.** Leave blank, should not apply.
- 11.** Leave blank, should not apply.
- 12.** Leave blank, should not apply.
- 13.** Check the box for person only, then cross out the sentence after the word “convenient”. If parental custody would pose a danger to the minor, check the box in the second sentence and complete attachment “13.” For a sample attachment “13” [click here](#). (link to sample form)
- 14.** Leave blank, should not apply.

- 15.** This box is only checked if certain persons cannot be located, who should be notified of your petition. If you check this box you will need to complete attachment “15.” For a sample attachment “15” [click here](#). (link to sample form)
- 16.** Will only apply if the guardian is **not** related to the minor. If you are related, skip this section and if you are **not**, complete (a) & (b).
- 17.** Check this box, and any other boxes that identify the other forms you will be filing with this petition.
- 18.** List the names and residence addresses of the minor’s:
- a. Father
 - b. Mother
 - c. Grandparents
 - d. “Other” Relatives of the minor, such as adult siblings, first aunts and first uncles.

19. List the number of **additional pages** you are attaching to the petition.

Complete the petition with the **date, your name** (type or print) and **your signature**.

(A sample of a completed petition as well as sample attachments to be used with the petition can be found by clicking here.)(link to sample forms)

To continue with instructions for the next form, go to step #5.

Step 5

GUARDIANSHIP FORMS– SET #2

COMPLETING THE FORMS FOR GENERAL GUARDIANSHIP

(continued)

2. Declaration Under Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA)

This form basically gives the court information as to the child's present address and the places where the child has lived within the last five years. It also notifies the court of any information you may have about other cases or people concerning the child.

CAPTION

Complete the top three boxes (the caption) of the declaration the same as the petition. (If you do not remember how, go back to step #4 ([click here](#)) and repeat the instructions for the caption.)

CONTINUE WITH THE DECLARATION

The following instructions are numbered to match the numbers on the declaration. Please type or neatly print the information needed:

- 1.** This statement should apply, so there is nothing to complete here.
- 2.** This box is only checked if you need to keep your address and that of the child's **confidential** due to allegations of domestic violence and/or child abuse.

3. Number of minor children who are subject to this guardianship matter.

If the number is two, complete section **b** for the second child. If there are more than two, you will need to use attachment 3c for any additional children. For a sample attachment form 3c click [here](#). (link to sample form)

4. Check the box that applies. (If **yes**, complete the additional information requested.)
5. Check the box that applies. (If **yes**, complete the additional information requested.)
6. Check the box that applies. (If **yes**, complete the additional information requested.)

Complete the declaration with the **date, your name** (type or print) and **your signature**.

7. This box is only checked if there are more than two children listed on the declaration and you had to use attachment 3c. In which case, list the number of pages attached.

To continue with instructions to the next form, go to Step #6.

Step 6

GUARDIANSHIP FORMS– SET #2

COMPLETING THE FORMS FOR GENERAL GUARDIANSHIP (*continued*)

3. Consent of Proposed Guardian, Nomination of Guardian, Waiver Of Notice And Consent

This form is most often used for **consent of proposed guardian** but can also be used to include **nomination** and/or **waiver of notice** if they apply. Nomination is when the minor's natural parent (birth mother or father) selects you as guardian. **Waiver of notice** is when someone related to the minor who is entitled to notice of the matter is willing to consent to the appointment and waive that notice.

CAPTION

Complete the top three boxes (the caption) of the consent form the same as the petition. (If you don't remember how, go back to Step #4 (click [here](#)) and repeat the instructions for the caption.)

Next, you check the small box for **consent of proposed guardian** and complete section #1 of this form. Place an "x" in the box for "person," then date, print or type your name, and sign.

If nomination or waiver will apply in your case, you should complete section #2 and/or #3, respectively.

A sample of this completed form can be found by clicking [here](#). (link to sample completed form)

To continue with instructions to the next form, go to Step #7

Step 7

GUARDIANSHIP FORMS– SET #2

COMPLETING THE FORMS FOR GENERAL GUARDIANSHIP (*continued*)

4. Order Appointing Guardian Of Minor

This form is the formal order the judge signs at the hearing for general guardianship, if all the necessary forms have been completed and filed with the court, and the court approves the appointment of the proposed guardian.

CAPTION

Complete the top three boxes (the caption) of the **order** the same as the petition. (If you don't remember how, go back to Step #4 ([click here](#)) and repeat the instructions for the caption.)

CONTINUE WITH THE ORDER

There are a few sections on this form that may be completed by the court clerk and/or judge. The following instructions are numbered to match the numbers on the order that you should complete. Type or neatly print:

- 1. (c.)** Put your name

3. Check the first box and the second box only.

7. (a.) Put the name, address and telephone number of the guardian(s) and the name(s) of the minor(s).

9. (a.) Check this box

These are the standard areas to complete on this form. Other sections may or may not apply depending on your specific situation and can be filled in later by the judge or court clerk.

A sample of a completed order can be found by clicking here. (link to sample completed form)

To continue with instructions to the next form, go to Step #8.

Step 8

GUARDIANSHIP FORMS– SET #2

COMPLETING THE FORMS FOR GENERAL GUARDIANSHIP (*continued*)

5. Letters of Guardianship

This form when completed by the petitioner (you) and signed by the Court Clerk is the proof of your status as guardian of the minor. You should always have a **certified copy** in your possession. It is very important to complete this form, as the Order Appointing Guardian of Minor is not effective until **Letters** have issued.

CAPTION

Complete the top three boxes (the caption) of the **Letters of Guardianship** the same as the petition. (If you don't remember how, go back to Step #4 ([click here](#)) and repeat the instructions for the caption.)

CONTINUE WITH THE LETTERS

On the **left** side of the form under section #1, type or neatly print the guardian(s)' name. Check the box for **person** and then complete the name(s) of the minor(s).

On the **right** side of the form complete the **affirmation** section with the date, place (the city and state where you are signing) and your signature. If there are two guardians, both should sign either side by side, or one above the other.

This completes the guardian's portion of the form. You will need to have the letters issued by the clerk of the court after your court hearing. At that time you can purchase **certified** copies of the **Letters** from the court clerk for a small fee.

For a sample of completed Letters of Guardianship click here. (link to sample completed form)

****Note****

If you are not filing for temporary guardianship you are ready to file your papers. You will need to complete the Notice of Hearing after you file. Instructions for completing the Notice of Hearing can be found in Step 13 (click here). (link to Step 13)

If you need a temporary guardianship because you have an emergency situation that will not allow you to wait until the hearing on the general

guardianship, you need to complete the third set of forms for Temporary Guardianship. For instructions with these forms go to Step #9.

Step 9

GUARDIANSHIP FORMS– SET #3

COMPLETING THE FORMS FOR TEMPORARY GUARDIANSHIP

6. Petition For Appointment Of Temporary Guardian

This form must be completed when there is urgent need to appoint a guardian immediately. It is filed together with general guardianship forms and is **not** available as a separate action.

CAPTION

Complete the top three boxes (the caption) of the **Petition for Appointment of Temporary Guardian** the same as the general petition. (If you don't remember how, go back to Step #4 ([click here](#)) and repeat the instructions for the caption.)

CONTINUE WITH THE PETITION FOR TEMPORARY GUARDIANSHIP

The following instructions are numbered to match the same numbers on the Petition for Appointment of Temporary Guardian. The numbers covered by these instructions may not be all that apply to your case, they are only the standard ones that you should complete.

1. Name of petitioner (person filing this form).
 - a. Put the name, address and telephone number of the person(s) to be appointed as guardian(s). Check the boxes for “**guardian**” and “**minor.**”
 - b. Leave blank, should not apply.
 - c. Check box (1) only (bond not be required) and cross out the words *for the reasons stated in Attachment 1c.*
2. Put the name, present address and telephone number of the minor(s).

3. Check the boxes for “**minor,**” “**guardian,**” “**provide for temporary care, maintenance, and support:**” and “**specified in Attachment 3.**”

You need to prepare a **declaration** to provide the facts that support the emergency or urgent needs that concern the minor, such as medical needs, parental neglect, etc. You can use the **Attached Declaration** form created by the Judicial Council ([click here for the form](#)), or a local form created by your court for this purpose.

The Attached Declaration form will be your **Attachment 3**. You need to label the form “Attachment 3,” and place it directly behind the Petition for Appointment of Temporary Guardian.

4. Check the box for: “**guardianship**”
(a) Check this box and the box for “**guardian.**”

Skip sections 5, 6, & 7 and go to #8.

8. List the number of pages attached to your Petition for Appointment of Temporary Guardian.

Complete the Petition for Temporary Guardianship with the **date, your name** (type or print) and **your signature**.

For a sample of a completed Petition for Appointment of Temporary Guardian with attachment 3, [click here](#). (link to sample completed forms)

To continue with instructions for completing the next form, go to Step #10.

Step 10

GUARDIANSHIP – SET#3

COMPLETING THE FORMS FOR TEMPORARY GUARDIANSHIP

7. Order Appointing Temporary Guardian

This form is the formal order the judge signs to appoint a temporary guardian for the minor.

CAPTION

Complete the top three boxes (the caption) of the **order appointing temporary guardian** the same as the regular petition. (If you don't remember how, go back to step #4 ([link to step #4](#)) and repeat the instructions for the caption.)

CONTINUE WITH THE ORDER APPOINTING TEMPORARY GUARDIAN

The following instructions are numbered to match the same numbers on the order appointing temporary guardian. The numbers covered by these instructions may not be all that apply to your case, they are only the standard ones that you should complete.

1. Check the box for **guardian**

(c) Name of petitioner (person filing this form).

3. Check the first, second, fourth and fifth box.

7.(a) Name, address and phone number of the person(s) that will be appointed as guardian(s). Check the box **guardian** and list the minor(s) name.

9.(a) Check this box (bond is not required).

This completes the basic preparation of this form.
Do not sign this form, the judge will sign this if the temporary guardianship is granted.

(For a completed sample of this form click here)(link to sample completed form)

To continue with instructions for the next form, go to step #11.

Step 11

GUARDIANSHIP – SET#3

COMPLETING THE FORMS FOR TEMPORARY GUARDIANSHIP

8. Letters Of Temporary Guardianship

This form when completed by the petitioner (you) and signed by the Court Clerk is the proof of your status as temporary guardian of the minor. You should always have a **certified copy** in your

possession. It is very important to complete this form as the Order Appointing Temporary Guardian is not effective until **letters** have issued.

CAPTION

Complete the top three boxes (the caption) of the letters the same as the petition. (If you don't remember how, go back to step #4 ([link to step #4](#)) and repeat the instructions for the caption.)

CONTINUE WITH THE LETTERS

On the **left** side of the form under section #1, type, or, if your local court allows hand-printed forms, neatly print the temporary guardian(s) name. Check the box for **guardian** and **person**; and type or print the minor's name.

On the **right** side of the form complete the **affirmation** section. Check the box for **guardian**, then **date**. Insert **place** (city and state) and your **signature**. If there are two guardians both should sign, side by side or one signature above the other.

This completes the guardian's portion of the form. You will need to have the temporary letters issued by

the clerk of the court after your court hearing. At that time you can purchase **certified copies** of the **temporary letters** from the clerk for a small fee.

(Click here to see a sample of completed letters of temporary guardianship.) (link to sample completed form)

To continue with instructions to Set #3 (Temporary Guardianship) and the final form, go to step #12.

Step 12

GUARDIANSHIP – SET#3

COMPLETING THE FORMS FOR TEMPORARY GUARDIANSHIP

9. Declaration Re Ex Parte Notice

Some courts have local forms for this declaration. If so, use the court's local form. If not, then check with your local court to find out if it will allow you to use another court's form. The Ventura County Superior Court has such a form that may or may not be acceptable to your local court. You can obtain the Ventura County Superior Court form through its web site at www.countyofventura.courts.org. If your court does not have its own form for this declaration, and will not accept another court's form, you can draft your own declaration including the following information taken from the Ventura County Superior Court's local form. (link to Ventura County local form #VN028)

This is the final form to complete when filing for temporary guardianship. The parents of the minor must be notified in advance of your *ex parte* request for temporary guardianship. Probate Code Section 2250 requires 5 days notice to the parents, and the minor if age 12 or older. However some courts may hear the matter with shorter notice if the other side does not object and good cause exists. Check with your court on its notice requirements to make sure you give the parents enough advance notice to have your matter heard by the court. **WARNING: if you do not give proper notice to the parents the court**

may deny your request without hearing the matter.

You use a declaration re ex parte notice to comply with the notice requirement set by law. The declaration form is then provided to the court with all the other guardianship forms required.

Check with your local court for *ex parte* procedures. Each court has its own calendar and procedure for hearing matters on an emergency or *ex parte* basis. Some courts may require you to schedule the hearing directly with the judge's secretary. If so, make sure you give the case number to the secretary and tell him or her that you are requesting an *ex parte hearing for temporary guardianship*. Make a note of the date and time for hearing as you will need this information to notify the minor's parents and to complete the declaration re ex parte notice.

CAPTION

If you are using a local form from your court, complete the top two boxes (the caption) of the ex parte notice the same as the regular petition for guardianship. (If you do not remember how, go back to step #4 and repeat the instructions for the caption.)

(link to step 4). In the third box you type or print the name(s) of the petitioner.

CONTINUE WITH THE DECLARATION RE EX PARTE NOTICE

Type or, if your court allows hand-printed forms, neatly print the name of the person (**declarant**) who is making the declaration to the court. This person must be the one who is giving, gave, or was unable to give **notice** to the minor's parents.

1. State the name of the person informed. (Usually the mother and/or father of the minor.) Include the specific information regarding your ex parte request, including the date, time, department or courtroom, and address of the court where the hearing will be held.
2. State the name of the person(s) whom you notified, and identify the method for giving notice, whether in person, by telephone, or other manner. Include the date, time, and telephone number, if applicable, when you called or spoke with the person(s).
3. If you were **not able to give notice** you need to let the court know why. You must give detailed

information about your attempts to give notice. If you are asking the court to *waive* notice, because you have a legitimate concern that it will place the minor(s) in danger, you need to complete a separate declaration with the facts in support of that request.

Complete the ex parte declaration re notice with the **date, declarant's name** (type or print) and **declarant's signature**. If you are the one who gave notice you are the declarant.

(To see a sample of a completed declaration re ex parte notice click [here](#).)(link to completed Ventura County Superior Court form #VN028)

THE EX PARTE HEARING

Follow this checklist to make sure you are prepared for your hearing:

1. Have your original forms and **2 extra copies** of each document.

2. Court filing fee (check with your local court for the exact amount, it should be close to \$200.00) or, a completed set and 1 copy of **Court Fee Waiver** forms (if you qualify). You can find the forms to apply for a waiver of the court fees if you are below the federal poverty line, or have other special qualifying factors that allow the court to waive the filing fee, by clicking here. (link to Application and Order for Waiver of Court Fees).

3. Check with your local court for its procedures on what you must file in advance of the hearing, and what you must bring to the hearing. Courts often require that you file all your papers **except** the *Order Appointing Temporary Guardian* and *Letters of Temporary Guardianship* in the clerk's office a specified time period before your ex-parte hearing.

If your court has a document examiner or self-help center that handles guardianship matters, try to have your papers reviewed by court staff before you file. This will give you a chance to complete or correct any necessary form that you may have left out.

4. Go to the hearing in the courtroom where it is scheduled. If your temporary guardianship is granted, take the 2 final papers (*Order Appointing Temporary Guardian* and *Letters of Temporary Guardianship*) after they are signed by the judge and court clerk and file them in the clerk's office. If your local court follows a different procedure check with the court bailiff or clerk in the courtroom where your hearing was held and follow the instructions for filing these forms.

When the clerk files your papers you will be given a new court date. This is usually the hearing for the general guardianship. You must give notice of this new hearing to the parents, the minor if age 12 or older and certain designated agencies. You should use the form **Notice Of Hearing Guardianship or Conservatorship** to complete this requirement.

To continue with instructions for the Notice of Hearing, go to step #13.

Step 13

GUARDIANSHIP

COMPLETING THE NOTICE OF HEARING – GUARDIANSHIP

This notice is required by law and must be given to the minor's parents, the “minor” if 12 years of age or older and certain relatives. In addition to familial relatives, state law requires that mail notice be given to designated government agencies.

Probate Code Section §1516 requires that in **relative** guardianships the local agency must be notified.

Probate Code Section §1542 requires that in **non-relative** guardianships, both the local agency and the Department of Social Services in Sacramento must be notified. Click here for a list of local agencies by county. (link to list with addresses). Click here to link to the Department of Social Services in Sacramento. (link to web site).

A copy of the Notice of Hearing must be given to all parties at least 15 days before the court

hearing. Service may be by mail. Proof of service is required.

You need to prepare the Notice Of Hearing, have it properly served by mail and file the original with the court clerk prior to your court hearing date.

CAPTION

Complete the top three boxes (the **caption**) of the **Notice of Hearing** the same as the regular guardianship petition. (If you don't remember how, go back to step #4 and repeat the instructions for the **caption**.) ([link here to step 4](#))

CONTINUE WITH THE NOTICE OF HEARING

1. Type or, if your court allows hand-printed forms, neatly print, the name of the petitioner(s) **and** the title of the document you filed. (It will most often be *Petition For Appointment Of Guardian Of Minor*.) If that is not what you filed put the title of the form you have filed.

4. (a) Insert the **date, time** and **department** when the hearing on your matter will be held.

(b) Check the first box “same as noted above”.

**CONTINUE ON THE REVERSE SIDE OF THE
NOTICE OF HEARING:**

The **proof of service by mail** must be completed in order to file the Notice Of Hearing. You will need someone else, age 18 or older and not a **party** (petitioner or respondent) to this case to complete the mailing for you.

Have that person complete the proof of service by mail in sections:

2, 3a, 4a & 4b, date, print name and their signature.

Complete the bottom portion of the form with the names and addresses of each person to whom notice was mailed. You must give notice of this hearing to the parents, the minor if age 12 or older, and all relatives to the second degree and designated government agencies as follows:

Relative Guardianships require notice to local agency:

(link to list of local agencies)

Non-Relative Guardianships require notice to both local and state agency:

California Department of Social Services
Adoptions Branch
744 P Street, Mail Station 19-67
Sacramento, CA 95814-6413

(A sample of a completed Notice Of Hearing can be found by clicking here.)